THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.2410 of 2002

Date : 14-9-2006

Between:

T.Abhimanyudu s/o.late Lavayya,
Indian, aged about 45 years,
R/o.Edapalli, Machilipatnam,
Krishna District. ..
Petitioner

And

1. Visakhapatnam Municipal Corporation,
represented by its Commissioner, Vizag.
2. The Mandal Revenue Officer,
Maddipalem Mandal, Maddipalem,
Visakhapatnam.
3. Mr.Charan Singh s/o.Basant Singh,
aged about 45 years (encroacher on
Government road), Maddipalem,
Visakhapatnam. ..
Respondents

THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.2410 of 2002

ORDER:

The Writ Petition is filed praying for a Writ of Mandamus directing respondents 1 and 2 authorities to take steps to demolish encroachments made by 3rd respondent and his men on public road in R.S.No.49/21-A, Maddipalem, Visakhapatnam and to lay the pucca B.T. road and footpath thereafter and to pass such other suitable orders.

It is stated that the petitioner is the owner of the residential plot admeasuring 550 sq.yards in R.S.No.49/21-A having purchased the same by registered sale deed on 6-2-1979 of Maddipalem and he is a sea-man by profession and fisherman by community and he will be away from home on high-seas for schedule land months and his family is stationed at Machilipatnam and he is intending to construct a house in his plot. It is also stated that taking undue advantage of his absence initially one Mutyala Raja and his henchmen had encroached on the Government land abutting house plots of himself and the neighbours. It

is stated that H.U.D.A. had approved road of 90 feet and 4 feet road margin i.e., footpath which is being encroached and the petitioner and other neighbours had made representation to the 1st respondent on 7-6-1999. The petitioner also personally made representation to the 1st respondent on 29-11-1999 and the same representation was sent to the Hon'ble Minister for Municipal Administration with the endorsement of the local minister i.e., Hon'ble Minister for B.C. Welfare and Fisheries. In the representation the petitioner requested the authorities to remove the encroachments on the public road and the Government land in and around his house plot. It is also stated that the authorities had not taken any action in this regard so far. It is further stated that emboldened by the inaction of the officials, certain antisocial elements led by 3rd respondent with the support and connivance of sub-staff of the respondents 1 and 2 had raised huts and the petitioner once again made representation to the respondents 1 and 2 in the year 2001 and also on 5-1-2002 to take steps to remove the encroachments. In such circumstances, the petitioner had approached this Court praying for appropriate relief.

The 1st respondent filed counter affidavit. It is stated that the petitioner may be the absolute owner of the property in S.No.49/21-A of Maddipalem village to an extent of 550 sq.yards. It is also stated that the representations specified

in the affidavit filed in support of the Writ Petition were not received by the 1st respondent. Further certain other allegations had been made in para-4 of the counter affidavit. Further it is stated that certain constructions which had been referred to are not on any road margin and such unauthorised constructions if any on Government land to be removed by the revenue authorities under the respective statutes.

It is stated that now that during the pendency of this Writ Petition the petitioner made representation dated 23-7-2004 and representation dated 3-12-2005 which is said to have been given on 5-12-2005. In the light of the facts and circumstances the respondents 1 and 2 are at liberty to dispose of the representations said to be already pending with them in accordance with law after giving opportunity to the petitioner and also the 3rd respondent if respondents 1 and 2 choose to do so in accordance with law. In any event if such representations are said to be not available, further liberty is given to the petitioner to make appropriate representations to both respondents 1 and 2 within a reasonable time and respondents 1 and 2 to consider such representations in accordance with law after putting the petitioner and the 3rd respondent on notice and take appropriate action in relation thereto in accordance with law. It is needless to say that the respondents 1 and 2 to take early action in relation thereto as expeditiously as possible.

With the above directions, the Writ Petition is disposed of. No order as to costs.

_____

Justice P.S. Narayana

Date : 14-9-2006

Note :
Furnish copy in
a week's time.

AM